

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

RICHARD ANTHONY HIGHTOWER,

Plaintiff,

vs.

THE CITY OF HOMEWOOD, et al.,

Defendants.

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2:10-cv-01560-RDP-JEO

MEMORANDUM OF OPINION

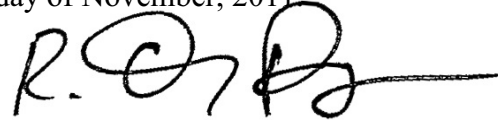
This is a prisoner civil rights action wherein Plaintiff challenges the actions of Defendants in obtaining and executing a search warrant. (Doc. #1). The Magistrate Judge assigned this matter filed a Report and Recommendation on September 26, 2011, recommending that Defendants' motion for summary judgment be granted and this case be dismissed with prejudice. (Doc. #30). Plaintiff filed objections on October 11, 2011. (Doc. #31).

Plaintiff levies additional objections to terms in the search warrant which he claims were false or misleading. (*Id.* at 1-3). In spite of his objections to specific words and phrases in the affidavit of Detective Rodriguez, which was used to obtain the search warrant, Plaintiff still has failed to "make a substantial showing that the defendant deliberately or recklessly made false statements or omissions that were material to the magistrate's finding of probable cause to issue the warrant." *See Franks v. Delaware*, 438 U.S. 154, 155-56 (1978).

Having carefully reviewed and considered *de novo* all the materials in the court file, including the Report and Recommendation and the objections filed by Plaintiff, the court is of the opinion that the Magistrate Judge's Report is due to be and is hereby **ADOPTED** and his Recommendation is **ACCEPTED**. The court **EXPRESSLY FINDS** that there are no genuine issues of material fact and

that Defendants are entitled to judgment as a matter of law. Accordingly, Defendant's motion for summary judgment is due to be granted and this action is due to be dismissed with prejudice. A Final Judgment will be entered.

DONE and **ORDERED** this 9th day of November, 2011

A handwritten signature in black ink, appearing to read 'R. David Proctor', written over a horizontal line.

R. DAVID PROCTOR
UNITED STATES DISTRICT JUDGE